INDEX

	Page
Opinions below	1
Jurisdiction	1
Question presented	2
Statutes and regulations involved	2
Statement	2
Discussion	3
Appendix	4

CITATIONS

Statutes:	
World War Veterans' Act, 1924, Sec. 19 as amended by the Act of July 3, 1930, c. 849, 46 Stat. 991, Sec. 4	4
Economy Act of March 20, 1933, c. 3, 48 Stat. 8, 9, 11:	
Sec. 5	4
Sec. 17	5
Miscellaneous:	
Executive Order, entitled Veterans Regulation No. 8, par. V	5

49450—34

In the Supreme Court of the United States

OCTOBER TERM, 1933

No. 855

MRS. MARGARET SHEA LYNCH, PETITIONER

v.

THE UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FIFTH CIRCUIT

BRIEF FOR THE UNITED STATES IN OPPOSITION

OPINIONS BELOW

The District Court rendered no opinion. The opinion of the Circuit Court of Appeals (R. 24–25) is reported in 67 F. (2d) 490.

JURISDICTION

The judgment of the Circuit Court of Appeals was entered November 3, 1933. (R. 26.) A petition for rehearing was denied December 14, 1933. (R. 28.) The petition for a writ of certiorari was filed March 12, 1934. The jurisdiction of this Court is invoked under Section 240 (a) of the Judicial Code as amended by the Act of February 13, 1925.

QUESTION PRESENTED

Whether the provisions of the Act of March 20, 1933, validly deprived the courts below of jurisdiction to adjudicate a claim for insurance benefits alleged to have arisen under a contract of war risk insurance in force between May 30, 1918 and September 1, 1919.

STATUTES AND REGULATIONS INVOLVED

The statutes and regulations involved are set forth in the Appendix, *infra*, pp. 4–5.

STATEMENT

The petitioner filed suit in the District Court of the United States for the Middle District of Georgia on April 21, 1933, seeking recovery of death benefits alleged to be payable under a contract of war risk term insurance issued to the petitioner's son, Thomas Stephen Lynch, who died intestate on November 27, 1924. (R. 1–3.) The petitioner was the designated beneficiary of the insurance.

Asserting that adjudication of the claim had been refused because of the provisions of the Act of March 20, 1933 (R. 3, 8, 11–12) the petitioner alleged the constitutional invalidity of that Act on various grounds set forth in the petition (R. 3–5, 8–10). The respondent demurred to the petition (R. 13–14) and the demurrer was sustained by the District Court (R. 17). On appeal to the Circuit Court of Appeals the judgment of the District

Court was affirmed on the ground that the Act of March 20, 1933, repealing all war risk term insurance laws and withdrawing the Government's consent to be sued thereunder validly deprived the District Court of jurisdiction. A petition for rehearing was filed and denied. (R. 26–28.)

DISCUSSION

As we view it the question in this case is identical in substance with that presented in the case of *Wilner* v. *United States,* in which a petition for a writ of certiorari, No. 861, October Term, 1933, was filed March 14, 1934. For the reasons set forth in the Government's brief in opposition in that case it is respectfully submitted that the petition herein should be denied.

J. CRAWFORD BIGGS,
Solicitor General.

APRIL 1934.

APPENDIX

STATUTES AND REGULATIONS

Section 19 of the World War Veterans' Act, 1924, as amended by the Act of July 3, 1930, c. 849, 46 Stat. 991, Sec. 4, provides:

> In the event of disagreement as to claim, including claim for refund of premiums, under a contract of insurance between the bureau and any person or persons claiming thereunder an action on the claim may be brought against the United States either in the Supreme Court of the District of Columbia or in the district court of the United States in and for the district in which such persons or any one of them resides, and jurisdiction is hereby conferred upon such courts to hear and determine all such controversies. * * *
>
> * * * * *
>
> The term "claim" as used in this section, means any writing which alleges permanent and total disability at a time when the contract of insurance was in force, or which uses words showing an intention to claim insurance benefits and the term "disagreement" means a denial of the claim by the director or some one acting in his name on an appeal to the director. * * *

The Economy Act of March 20, 1933, c. 3, 48 Stat. 8, Secs. 5 and 17, provided as follows:

> SEC. 5. All decisions rendered by the Administrator of Veterans' Affairs under the provisions of this title, or the regulations issued pursuant thereto, shall be final and

> conclusive on all questions of law and fact, and no other official or court of the United States shall have jurisdiction to review by mandamus or otherwise any such decision.
>
> SEC. 17. * * * all laws granting or pertaining to yearly renewable term insurance are hereby repealed, * * * *Provided,* That nothing contained in this section shall interfere with payments heretofore made or hereafter to be made under contracts of yearly renewable term insurance which have matured prior to the date of enactment of this Act and under which payments have been commenced, or on any judgment heretofore rendered in a court of competent jurisdiction in any suit on a contract of yearly renewable term insurance, or which may hereafter be rendered in any such suit now pending: * * *.

Pursuant to the authority vested by the provisions of the Act of March 20, 1933, *supra,* the President of the United States issued an Executive Order entitled Veterans Regulation No. 8, paragraph V of said order being as follows:

> Except as stated above, no payments may hereafter be made under contracts of yearly renewable term insurance (including automatic insurance) and all pending claims or claims hereafter filed for such benefits shall be disallowed.

U. S. GOVERNMENT PRINTING OFFICE: 1934